

**THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MFB Fertility, Inc.,

Plaintiff,

v.

Action Care Mobile Veterinary Clinic, LLC,

Defendant.

Case No. 1:23-cv-03854

Dist. Judge Harry D. Leinenweber

Mag. Judge Gabriel A. Fuentes

**DECLARATION OF ILYA G. ZLATKIN**

I, Ilya G. Zlatkin, of the Town of Munster, in the State of Indiana, declare as follows:

1. I am an attorney and represent Defendant Action Care Mobile Veterinary Clinic, LLC (“Action Care” or “Defendant”) in connection with the above-captioned lawsuit. I am admitted to practice before all Illinois state courts, all Indiana state courts, and the U.S. District Court for the Northern District of Illinois. I am in good standing with all of those courts and have never been subject to professional disciplinary proceedings of any kind.

2. This Declaration is submitted to supplement Defendant’s motion to dismiss (“Motion”) Plaintiff MFB Fertility, Inc.’s (“Plaintiff” or “MFB”) copyright infringement claim, which was filed as part of Plaintiff’s complaint (“Complaint”) against Defendant. Except as otherwise expressly stated to the contrary, I have personal knowledge of the following facts and, if called as a witness, I could and would competently testify to the assertions contained in this Declaration.

3. On June 20, 2023, Plaintiff filed the Complaint without attaching the parties’ respective works.

4. On June 23, 2023, I emailed Plaintiff’s counsel, informing them that my firm was in the process of being retained by Action Care and requesting that Plaintiff’s counsel forward

(i) the Plaintiff's work that is the basis of Plaintiff's copyright infringement claim against Action Care (such work, "Proov Content") and (ii) screenshots of Action Care's digital properties alleged by Plaintiff to have infringed upon the Proov Content ("Action Care's Digital Properties").

5. Not having received either the Proov Content or Action Care's Digital Properties, I again followed up via email with Plaintiff's counsel on July 6, 2023, requesting the same.

6. On or around July 7, 2023, I submitted a request to the Records Research and Certification Division of the U.S. Copyright Office for a quote to obtain a certified copy of the deposit ("Deposit") submitted with Plaintiff's application to register the Proov Content.

7. On or around July 12, 2023, I prepared and submitted Form LS (Litigation Statement) to the U.S. Copyright Office, along with the required fee to obtain a certified copy of the Deposit.

8. On July 24, 2023, I again requested via email that Plaintiff's counsel provide copies of the Proov Content and Action Care's Digital Properties.

9. On or around July 26, 2023, the U.S. Copyright Office issued a certified copy of the Deposit ("Certified Deposit").

10. On or around August 17, 2023, I received a physical copy of the Certified Deposit, and I proceeded to scan the various pages of the Certified Deposit using the mobile application CamScanner, so as to avoid unbinding or in any other way altering the physical copy of the Certified Deposit (such scanned copy, "Scanned Deposit").

11. On August 23, 2023, I delivered the physical copy of the Certified Deposit to the chambers of U.S. District Judge Harry D. Leinenweber and handed the physical copy of the Certified Deposit to Judge Leinenweber's courtroom deputy, Ms. Melanie Foster.

12. For the reference of the parties and the Court, attached herewith as **Exhibit A** is the Scanned Deposit. Various yellow-hued colorings on the Scanned Deposit are the byproduct of shadows cast by other pages of the physical copy of the Certified Deposit (after the use of filter(s) available in CamScanner to improve legibility), and such markings are not present on the Certified Deposit. In all other material respects, the Scanned Deposit accurately reflects the Certified Deposit.

13. As of the date of this Declaration, despite my multiple requests, I have not received copies of either the Proov Content or Action Care's Digital Properties from Plaintiff's counsel.

14. The copies of Action Care's Digital Properties submitted concurrently herewith as **Exhibit B** consist of screenshots of Action Care's website and Action Care's listing on Amazon, both of which advertise Action Care's OvuProof products. The screenshots of Action Care's Digital Properties were captured by me on or around August 8, 2023, and are, to the best of my knowledge, the comprehensive works of Action Care referenced by Plaintiff in the Complaint, with no material changes from the date of the Complaint.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed on September 15, 2023, at Reno, Nevada.

Respectfully submitted,

/s/ Ilya G. Zlatkin  
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